

**VIRGINIA BOARD OF MEDICINE
LEGISLATIVE COMMITTEE MINUTES**

Friday, January 21, 2011

Department of Health Professions

Richmond, VA

CALL TO ORDER: The meeting of the Committee convened at 8:50 a.m.

MEMBERS PRESENT: Claudette Dalton, MD, Vice-President, Chair
Deeni Bassam, MD
Stephen Heretick, JD
Valerie Hoffman, DC
Gopinath Jadhav, MD
Jennifer Lee, MD

MEMBERS ABSENT: Juan Montero, MD

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Director, Discipline
Ola Powers, Deputy Director, Licensure
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager
Elaine Yeatts, DHP Policy Analyst
Dianne L. Reynolds-Cane, MD, DHP, Director
Amy Marschean, Sr. Assistant Attorney General

OTHERS PRESENT: Lewis Ladocsi, MD, VSPS
Michael Goodman, JD
Matt Benedetti, VSPS
Michael Jurgensen, MSV
Terry Schulte, VAFP

ROLL CALL

EMERGENCY EGRESS INSTRUCTIONS

Dr. Dalton provided the emergency egress instructions.

APPROVAL OF MINUTES OF SEPTEMBER 17, 2010

Dr. Hoffman moved to approve the minutes of September 17, 2010 as presented. The motion was seconded and carried.

ADOPTION OF AGENDA

Mr. Heretick moved to approve the agenda as presented.

PUBLIC COMMENT

Michael Goodman, JD, representing Bon Secours Health System, addressed the Committee regarding Bon Secours' proposed amendment to the Code of Virginia that tracks a prescription refill policy that has been endorsed by the American Academy of Family Practitioners. He said the proposed changes would allow a mid-level provider to approve refills according to a standing protocol put in place by the practitioner that has the prescriptive authority. Mr. Goodman stated that this change may be an inevitability with the growing use of electronic medical records.

Lewis Ladocsi, MD, President of the Virginia Society of Plastic Surgeons (VSPS), spoke in favor of the recommendation from the Ad Hoc Committee on Office-Based Surgery. Dr. Ladocsi urged the Legislative Committee to recommend the development of specific regulations patterned after those in Florida and the Position Statement of the North Carolina Board of Medicine.

NEW BUSINESS

Regulatory Actions

Ms. Yeatts gave a brief summary of pending legislation relevant to the Board.

This item was for informational purposes only and did not require any action by the Committee.

Legislative Report

Ms. Yeatts distributed an updated report on the Board's regulatory actions.

This item was for informational purposes only and did not require any action by the Committee.

Proposed Inspection instrument for Mixing, Diluting or Reconstituting (MDR)

Dr. Harp reported that part of the enactment clause for MDR regulations required the Board to develop an inspection process for offices that reported engaging in MDR. He stated that for over 100 years the Board of Pharmacy did not proactively go out to specifically inspect this function, but rather followed a complaint-based approach. The Board of Medicine has had at least one case in which a complaint generated the need to review the MDR processes in a physician's office. The Enforcement Division created its own form (pages 3-4 in the

agenda packet) for the purpose of investigations. Dr. Harp noted that it tracks the requirements in the regulations in a simple yet complete way. He commended Enforcement for its development and encouraged the Committee to recommend adoption of the instrument for the MDR inspection process when it gets underway.

Dr. Hoffman moved to recommend to the Full Board that this instrument be adopted as the official document used to do MDR inspections of physicians' offices. The motion was seconded and carried unanimously.

Protocols for Refill

Caroline Juran, RPh, acting director for the Board of Pharmacy, addressed the Committee regarding the issue of refilling prescriptions by protocol. She advised that currently there are no provisions for anyone other than the practitioners listed in law to authorize a prescription or prescription refill. Ms. Juran stated that to allow any other provider to authorize refills, it would be necessary to amend Section 54.1-3408 of the Code of Virginia.

The Committee discussed its concerns regarding responsibility and liability to the practitioner if this change was made. Although it was seen as convenient, the Committee believed that the practitioner should have some knowledge of what drugs were being authorized on a daily basis since his/her license was on the line. Hesitation was voiced regarding setting up a system that marginalized the practitioner's involvement.

After discussion, the Committee agreed that more specific language would need to be presented before any progress can be made on this issue.

Mr. Goodman was invited to return before this Committee to present an update on this issue.

Recommendations of the Ad Hoc Committee on Office-Based Surgery

Dr. Harp summarized the background of this issue.

The members of the Committee reviewed and discussed the minutes from the previously held meetings of the Ad Hoc on Office-Based Surgery, as well as the motion from the Ad Hoc's January 11, 2011 meeting.

The recommendation of the Ad Hoc read as follows: "That the Board of Medicine develop a guidance document on office-based procedures for use during the development of proposed regulations to protect patients from the threat of inadequately trained providers who offer cosmetic and other surgical services in outpatient settings."

After some discussion, Dr. Bassam suggested that if a guidance document is to be developed, it should be fashioned after Arizona's guidance document (pages 88-98 in the agenda packet).

Dr. Jadhav agreed with the development of a guidance document and added that regulations should follow.

After further discussion and without endorsing or declining the recommendation of the Ad Hoc, the Committee voted unanimously to forward the recommendation to the Full Board for broader discussion and to gain as many perspectives as possible on the issue.

ANNOUNCEMENTS

As a point of personal privilege, Dr. Bassam shared with the Committee what he had recently learned from law enforcement regarding prescription fraud and diversion of controlled substances in the geographical area where he practices. He encouraged the Committee to play a positive role in the 2012 General Assembly session to amend the current PMP law to allow greater access to PMP data by law enforcement if the entity has an open investigation.

Dr. Harp reminded the Committee that at the inception of the PMP, Virginia practitioners were required to obtain permission from the patient prior to checking the patient's data in the PMP. Progress has been made in granting appropriate access to PMP data. He added that were legislation to be developed in this regard, it would necessarily involve the Board of Pharmacy and the PMP.

Dr. Bassam advised that he will communicate with the Medical Society of Virginia and his legislators about this issue. Dr. Harp suggested Caroline Juran as the point of contact for the Board of Pharmacy.

Ms. Deschenes reminded the Committee to destroy or send to the Board any documents received at their homes or offices that appeared to be Board-related but that did not originate from the Board. Such documents should not be read or discussed.

Next meeting – May 20, 2011

Adjournment - With no other business to conduct, the meeting adjourned at 11:45 a.m.

Claudette Dalton, M. D., Vice-President
Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary